

REMARKS

The Applicant wishes to thank the Examiner for thoroughly reviewing and considering the pending application. The Office Action dated August 28, 2006 has been received and carefully reviewed.

Claims 1-3, 6-16, 19-25 and 27-34 are currently pending. Reexamination and reconsideration are respectfully requested.

In the Office Action, claims 1-3, 6-16 and 19-34 are rejected under 35 U.S.C. § 102(f) because the Applicant allegedly did not invent the claimed subject matter. The Applicant traverses the rejection.

The Examiner states on page 2 of the last Office Action that the parent application 09/780,713, published as U.S. Patent No. 7,069,984, lists In Kwon Jeong as the sole inventor.

However, in the parent application 09/780,713, a Petition under 37 CFR 1.48(a) to correct inventorship and a Petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2), which requires a statement of lack of deceptive intent from the inventor who is to be deleted as a named inventor, were filed on January 4, 2005 and supplemented on September 19, 2005. Both petitions were GRANTED on October 25, 2005. Accordingly, the inventor Boris Atlas is the sole inventor of parent application 09/780,713, published as U.S. Patent No. 7,069,984. A courtesy copy of the Decision on the petitions is submitted herewith.

Furthermore, Applicant notes that on the face of U.S. Patent No. 7,069,984, In Kwon Jeong is listed as the sole inventor. However, this is an error and Applicant has filed a Request for Certificate of Correction on October 16, 2006 for the patent requesting that the inventor information be corrected. The requested change is in accordance with the Petitions that were granted by the Office of Petitions on October 25, 2005. The error is not due to the Applicant. A courtesy copy of the Request for Certificate of Correction is submitted herewith. Also, claim 26

was previously cancelled. Accordingly, Applicant respectfully submits that the rejection of claims 1-3, 6-16 and 19-34 under 35 U.S.C. § 102(f) be withdrawn.

Also, in the Office Action, claims 1-3, 6-16 and 19-34 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 7,069,984 in view of U.S. Patent No. 6,102, 113. As stated above, in accordance with the Petitions that were granted by the Office of Petitions on October 25, 2005, the inventor Boris Atlas should be listed as the sole inventor of parent application 09/780,713, published as U.S. Patent No. 7,069,984. Accordingly, the invention disclosed in U.S. Patent No. 7,069,984 was derived from the inventor of this application and is thus is not an invention "by another." Accordingly, U.S. Patent No. 7,069,984 does not qualify as prior art under 35 U.S.C. § 102(e). Also, claim 26 was previously cancelled. Thus, the rejection of claims 1-3, 6-16 and 19-34 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 7,069,984 in view of U.S. Patent No. 6,102, 113 is improper and withdrawal is respectfully requested.

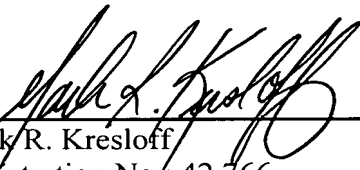
Also, in the Office Action, claims 1-3, 6-16 and 19-34 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 7,069,984 in view of U.S. Patent No. 6,102, 113. The Examiner states a timely filed terminal disclaimer may be used to overcome a rejection based on nonstatutory obviousness-type double patenting. Applicant respectfully points out that a terminal disclaimer over U.S. Application No. 09/780,713, which is now U.S. Patent No. 7,069,984, was filed on October 15, 2004. The terminal disclaimer was approved on September 15, 2006. Courtesy copies of the terminal disclaimer and the approval of the terminal disclaimer are submitted herewith. Claim 26 was previously cancelled. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 1-3, 6-16, 19-25 and 27-34.

Accordingly, the application is in a condition for allowance and favorable action is respectfully solicited. If for any reason the Examiner believes a conversation with the Applicant's representative would facilitate the prosecution of this application, the Examiner is encouraged to contact the undersigned attorney at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: November 28, 2006

Respectfully submitted,

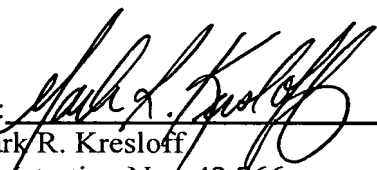
By: 
Mark R. Kresloff
Registration No.: 42,766
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorney for Applicant

Accordingly, the application is in a condition for allowance and favorable action is respectfully solicited. If for any reason the Examiner believes a conversation with the Applicant's representative would facilitate the prosecution of this application, the Examiner is encouraged to contact the undersigned attorney at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

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Dated: November 28, 2006

Respectfully submitted,

By: 
Mark R. Kresloff
Registration No.: 42,766
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorney for Applicant



UNITED STATES PATENT AND TRADEMARK OFFICE



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE, L.L.P.

c/o Song K. Jung
1900 K. Street, N.W.
Washington DC 20006

COPY MAILED

OCT 25 2005

OFFICE OF PETITIONS

In re Application of
Atlas
Application No. 09/780,713
Filed: February 8, 2001
Attorney Docket No. 9323.053.00-US
For: MULTI-CHANNEL TEMPERATURE
CONTROL SYSTEM FOR SEMICONDUCTOR
PROCESSING FACILITIES
: :
: :
: ON PETITION
: :
: :

This is a decision on the petitions under (1) 37 CFR 1.48(a) to correct the inventorship in the above-identified application and (2) 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2), which requires a statement of lack of deceptive intent from the inventor who is to be deleted as a named inventor. The petitions were filed January 4, 2005 and supplemented on September 19, 2005

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) is **GRANTED**.

The petition under 37 CFR 1.48(a) to correct inventorship is **GRANTED**.

An executed declaration in compliance with 37 CFR 1.63 was filed on February 8, 2001. The executed declaration listed a sole inventor – In-Kwon Jeong.

The instant petitions were filed to correct the inventorship by adding Boris Atlas as the sole inventor and deleting In-Kwon Jeong as the sole inventor.

37 CFR 1.48(a) requires: (1) a request to correct the inventorship that sets forth the desired inventorship change (2) a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part; (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47; (4) the fee set forth in 37 CFR 1.17 (i); and (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Mr. Atlas has provided a statement that the error in not naming him as inventor occurred without deceptive intent and has executed a declaration listing the proper inventive entity.

Mr. Jeong constructively refuses to sign the statement required under 37 CFR 1.48(a)(2). He has received a number of copies of the statement and has spoken to Attorney Anthony Josephson regarding the reasons why he is not an inventor, yet he delays signing the statement.

It is settled that when the question of inventorship between diverse parties is contested, the USPTO will not relax the requirements of 37 CFR 1.48 by way of 37 CFR 1.183. See In re Cooper, 230 USPQ 638, 639 (Comm'r Pat. 1985). However, a review of USPTO assignment records reveals that Mr. Jeong has executed an assignment of all his rights to Oriol Inc. Oriol, Inc., through its authorized Chapter 7 trustee, has acquiesced to deletion of Mr. Jeong as a joint inventor.

Petitioner has shown (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(2) is granted.

Petitioner has also satisfied the requirements of 37 CFR 1.48(a): Petitioner requested correction of inventorship and set forth the desired inventorship change; the person being added as an inventor provided a statement that the error in inventorship occurred without deceptive intention on his part; petitioner has obtained waiver of the requirement that the person being deleted as an inventor provide a statement that the error in inventorship occurred with deceptive intention on his part; the processing fee has been authorized; and written consent of the Chapter 7 authorized representative of the assignee was submitted.

Petitioner has shown that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Boris Atlas and the deletion of In-Kwon Jeong.

Please find enclosed a corrected filing receipt that reflects the corrected inventorship.

Regarding fees, a petition for waiver of the rules under 37 CFR 1.183 is \$400.00. Only \$130.00 was charged. Pursuant to petitioner's authorization, deposit account no. 50-0911 will be charged a \$270.00 fee.

After the mailing of this decision, the application will be forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, appearing to read "E. Shirene Willis". The signature is fluid and cursive, with the first letter of the first name being a large capital "E".

E. Shirene Willis

Senior Petitions Attorney

Office of Petitions

Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

enclosure: corrected filing receipt



Docket No. 9323.053.00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Boris ATLAS

Patent No. 7,069,984

Issued: July 4, 2006

For: MULTI-CHANNEL TEMPERATURE CONTROL
SYSTEM FOR SEMICONDUCTOR PROCESSING
FACILITIES

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION

Sir:

Upon reviewing the referenced patent, an error was found and should be corrected as follows.

On the Cover Page:

On line (75), delete "Inventor: In Kwon Jeong, Sunnyvale, CA (US)" and insert therefor --

Inventor: Boris Atlas, San Jose, CA (US)--.

The requested change is set forth in attached PTO Form SB/44. The requested change is in accordance with the Petition that was granted by the Office of Petitions on October 27, 2005. The error is not due to Applicant/Patentee.

If there are any questions concerning this Request for Certificate of Correction, please contact Mark Kresloff at (202) 496-7513.

Patentee respectfully solicits the granting of the requested Certificate of Correction.

Respectfully submitted,

Dated: October 16, 2006

By


Mark R. Kresloff
Registration No. 42,766

McKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, DC 20006
(202) 496-7500
Attorneys for Applicant

DC:30438830.1

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,069,984
APPLICATION NO. : 09/780,713
ISSUE DATE : July 4, 2006
INVENTOR(S) : Boris ATLAS

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

[75] Inventor: Boris Atlas, San Jose, CA (US)

MAILING ADDRESS OF SENDER:
MCKENNA LONG & ALDRIDGE LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 496-7500

PATENT NO. 7,069,984

No. of add'l. copies: 1

FAX TRANSMISSION

DATE: October 16, 2006
CLIENT NO.: 9323.053.00 (U.S. Patent No. 7,069,984)
MESSAGE TO: Examiner Ciric
COMPANY: United States Patent and Trademark Office
FAX NUMBER: 571 273 4909
PHONE:
FROM: Mark R. Kresloff
PHONE: (202) 496-7513

PAGES (Including Cover Sheet): 3

HARD COPY TO FOLLOW: ☐ YES ☒ NO

MESSAGE:

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (202) 496-7583 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

MCKENNA LONG & ALDRIDGE LLP
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Telephone: (202) 496-7500 Facsimile: (202) 496-7756

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OCT 15 2004

PTO/SB/25(05-03)

Approved for use through 4/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Group 3700

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING SECOND APPLICATION

Docket Number (Optional)

9323.055.00-US

In re Application of: In Kwon JEONG

Application No.: 09/828,029

Filed: April 6, 2001

For: MULTI-CHANNEL TEMPERATURE CONTROL SYSTEM FOR SEMICONDUCTOR
PROCESSING FACILITIES

The owner*, Oriol Inc., of 100
percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of
any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined
in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending
second Application Number 09/780,713, filed on February 8, 2001, of any patent on the
pending second application. The owner hereby agrees that any patent so granted on the instant application shall be
enforceable only for and during such period that it and any patent granted on the second application are commonly owned.
This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or
assigns.

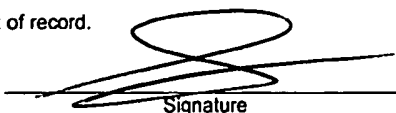
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant
application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent
granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any
such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of
competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled
by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as
shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the
undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on
information and belief are believed to be true; and further that these statements were made with the knowledge that willful
false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the
United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued
thereon.

2. ☒ The undersigned is an attorney or agent of record.


Signature

October 7, 2004
Date

Song K. Jung; Reg. No. 35,210


Typed or printed name

(202) 496-7413

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

Application number 	09/828,029	Reexamination ATLAS, BORIS	
Document Code - DISQ	Internal Document – DO NOT MAIL		

TERMINAL DISCLAIMER	<input checked="" type="checkbox"/> APPROVED	<input type="checkbox"/> DISAPPROVED
Date Filed : 10/15/04	This patent is subject to a Terminal Disclaimer	

Approved/Disapproved by:
JH -- 9/15/06

PRIOR ART

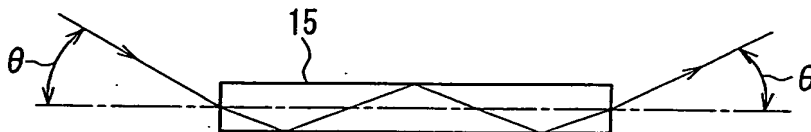


FIG. 22

PRIOR ART

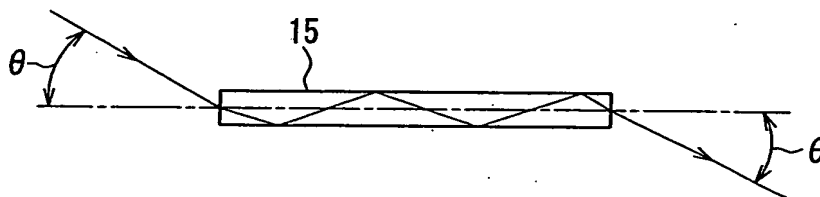


FIG. 23